

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HOUSE BILL 2495

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.28; AMENDING TITLE 11, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-812; AMENDING TITLE 32, CHAPTER 20, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2114.01; AMENDING SECTIONS 32-2115, 32-2183, 32-2183.05, 33-422 AND 37-102, ARIZONA REVISED STATUTES; RELATING TO MILITARY BASE DISCLOSURE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes, is
3 amended by adding section 9-500.28, to read:

4 9-500.28. Disclosure of filings in military electronics range:
5 definition

6 A. A CITY OR TOWN THAT CONTAINS ANY PORTION OF A MILITARY ELECTRONICS
7 RANGE AS DELINEATED IN THE MILITARY ELECTRONICS RANGE MAP PREPARED BY THE
8 STATE LAND DEPARTMENT PURSUANT TO SECTION 37-102 SHALL NOTIFY THE OFFICE OF
9 THE INSTALLATION COMMANDER WHEN AN APPLICATION IS DEEMED COMPLETE BY THE CITY
10 OR TOWN TO DO ANY OF THE FOLLOWING WITHIN ANY PORTION OF THE MILITARY
11 ELECTRONICS RANGE:

12 1. REZONE THE PROPERTY.

13 2. ISSUE A BUILDING OR OTHER DEVELOPMENT PERMIT, INCLUDING AN
14 APPLICATION FOR CONSTRUCTION OR INSTALLATION OF A PUBLICLY OR PRIVATELY
15 OPERATED UTILITY, FOR THE PROPERTY.

16 3. SUBDIVIDE THE PROPERTY OR OTHERWISE DIVIDE THE PROPERTY, INCLUDING
17 ANY LAND DIVISION INTO FIVE OR FEWER LOTS, WHETHER FOR RESIDENTIAL,
18 INDUSTRIAL, COMMERCIAL OR ANY OTHER USE.

19 B. IF THE INSTALLATION CHOOSES TO MAKE OFFICIAL COMMENTS ON THE
20 PROPOSED LAND USE CHANGE, THOSE COMMENTS SHALL BE MADE IN WRITING AND
21 RECEIVED BY THE CITY OR TOWN SEVEN DAYS BEFORE THE FIRST PUBLIC HEARING ON
22 THE PROPOSED LAND USE CHANGE. IF THE PROPOSED LAND USE CHANGE DESCRIBED IN
23 SUBSECTION A OF THIS SECTION DOES NOT REQUIRE A PUBLIC HEARING, THIS
24 SUBSECTION SHALL NOT BE CONSTRUED TO ALLOW OR REQUIRE A PUBLIC HEARING BY THE
25 CITY OR TOWN ON WRITTEN COMMENTS BY THE INSTALLATION. IF THE INSTALLATION
26 CHOOSES NOT TO SUBMIT OFFICIAL COMMENTS, THE CITY OR TOWN SHALL NOTE AT THE
27 PUBLIC HEARING ON THE PROPOSED LAND USE CHANGE THAT THE INSTALLATION HAS NOT
28 INDICATED AN OBJECTION TO THE PROPOSED LAND USE CHANGE.

29 C. THE CITY OR TOWN SHALL PROVIDE NOTICE TO THE OFFICE OF THE
30 INSTALLATION COMMANDER PURSUANT TO THIS SECTION BY PROVIDING A COPY OF THE
31 APPLICATION AND THE RELEVANT DOCUMENTATION THAT IS NECESSARY TO ADEQUATELY
32 DESCRIBE THE PROPOSED LAND USE CHANGE AS IT RELATES TO THE MILITARY
33 OPERATIONS AT THE INSTALLATION. THIS DOCUMENTATION SHALL INCLUDE A BASIC
34 OUTLINE OF THE PROCEDURES THE CITY OR TOWN USES WHEN PROCESSING LAND USE
35 CHANGE APPLICATIONS AND DEADLINES FOR SUBMITTING OFFICIAL COMMENTS.

36 D. THIS SECTION SHALL NOT BE CONSTRUED TO ALLOW OR REQUIRE A CITY OR
37 TOWN TO DENY ANY USE OR OCCUPANCY PERMIT, BUILDING PERMIT, ZONING APPROVAL OR
38 ANY OTHER PERMIT, APPROVAL OR OTHER AUTHORIZATION BASED ON THE EXISTENCE OF
39 THE MILITARY ELECTRONICS RANGE OR ITS PROXIMITY TO A PARCEL OF REAL ESTATE.

40 E. THIS SECTION SHALL NOT BE CONSTRUED TO REQUIRE A CITY OR TOWN TO
41 MEET THE NOTIFICATION REQUIREMENTS OF THIS SECTION IF THE STATE LAND
42 DEPARTMENT HAS NOT PREPARED A MAP OF THE MILITARY ELECTRONICS RANGE.

1 F. FOR THE PURPOSES OF THIS SECTION, "MILITARY ELECTRONICS RANGE"
2 MEANS THE GEOGRAPHICALLY DEFINED AREA IN WHICH ELECTRONIC COMMUNICATION,
3 MONITORING OR OTHER DEVICES ARE ROUTINELY TESTED AS A PART OF THE MILITARY
4 MISSION OF A MILITARY INSTALLATION.

5 Sec. 2. Title 11, chapter 6, article 1, Arizona Revised Statutes, is
6 amended by adding section 11-812, to read:

7 11-812. Disclosure of filings in military electronics range;
8 definition

9 A. A COUNTY THAT CONTAINS ANY PORTION OF A MILITARY ELECTRONICS RANGE
10 AS DELINEATED IN THE MILITARY ELECTRONICS RANGE MAP PREPARED BY THE STATE
11 LAND DEPARTMENT PURSUANT TO SECTION 37-102 SHALL NOTIFY THE OFFICE OF THE
12 INSTALLATION COMMANDER WHEN AN APPLICATION IS DEEMED COMPLETE BY THE COUNTY
13 TO DO ANY OF THE FOLLOWING WITHIN ANY PORTION OF THE MILITARY ELECTRONICS
14 RANGE:

15 1. REZONE THE PROPERTY.

16 2. ISSUE A BUILDING OR OTHER DEVELOPMENT PERMIT, INCLUDING AN
17 APPLICATION FOR CONSTRUCTION OR INSTALLATION OF A PUBLICLY OR PRIVATELY
18 OPERATED UTILITY, FOR THE PROPERTY.

19 3. SUBDIVIDE THE PROPERTY OR OTHERWISE DIVIDE THE PROPERTY, INCLUDING
20 ANY LAND DIVISION INTO FIVE OR FEWER LOTS, WHETHER FOR RESIDENTIAL,
21 INDUSTRIAL, COMMERCIAL OR ANY OTHER USE.

22 B. IF THE INSTALLATION CHOOSES TO MAKE OFFICIAL COMMENTS ON THE
23 PROPOSED LAND USE CHANGE, THOSE COMMENTS SHALL BE MADE IN WRITING AND
24 RECEIVED BY THE COUNTY SEVEN DAYS BEFORE THE FIRST PUBLIC HEARING ON THE
25 PROPOSED LAND USE CHANGE. IF THE PROPOSED LAND USE CHANGE DESCRIBED IN
26 SUBSECTION A DOES NOT REQUIRE A PUBLIC HEARING, THIS SUBSECTION SHALL NOT BE
27 CONSTRUED TO ALLOW OR REQUIRE A PUBLIC HEARING BY THE COUNTY ON WRITTEN
28 COMMENTS BY THE INSTALLATION. IF THE INSTALLATION CHOOSES NOT TO SUBMIT
29 OFFICIAL COMMENTS, THE COUNTY SHALL NOTE AT THE PUBLIC HEARING ON THE
30 PROPOSED LAND USE CHANGE THAT THE INSTRUCTION HAS NOT INDICATED AN OBJECTION
31 TO THE PROPOSED LAND USE CHANGE.

32 C. THE COUNTY SHALL PROVIDE NOTICE TO THE OFFICE OF THE INSTALLATION
33 COMMANDER PURSUANT TO THIS SECTION BY PROVIDING A COPY OF THE APPLICATION AND
34 THE RELEVANT DOCUMENTATION THAT IS NECESSARY TO ADEQUATELY DESCRIBE THE
35 PROPOSED LAND USE CHANGE AS IT RELATES TO THE MILITARY OPERATIONS AT THE
36 INSTALLATION. THIS DOCUMENTATION SHALL INCLUDE A BASIC OUTLINE OF THE
37 PROCEDURES THE COUNTY USES WHEN PROCESSING LAND USE CHANGE APPLICATIONS AND
38 DEADLINES FOR SUBMITTING OFFICIAL COMMENTS.

39 D. THIS SECTION SHALL NOT BE CONSTRUED TO ALLOW OR REQUIRE A COUNTY TO
40 DENY ANY USE OR OCCUPANCY PERMIT, BUILDING PERMIT, ZONING APPROVAL OR ANY
41 OTHER PERMIT, APPROVAL OR OTHER AUTHORIZATION BASED ON THE EXISTENCE OF THE
42 MILITARY ELECTRONICS RANGE OR ITS PROXIMITY TO A PARCEL OF REAL ESTATE.

43 E. THIS SECTION SHALL NOT BE CONSTRUED TO REQUIRE A COUNTY TO MEET THE
44 NOTIFICATION REQUIREMENTS OF THIS SECTION IF THE STATE LAND DEPARTMENT HAS
45 NOT PREPARED A MAP OF THE MILITARY ELECTRONICS RANGE.

1 F. FOR THE PURPOSES OF THIS SECTION, "MILITARY ELECTRONICS RANGE"
2 MEANS THE GEOGRAPHICALLY DEFINED AREA IN WHICH ELECTRONIC COMMUNICATION,
3 MONITORING OR OTHER DEVICES ARE ROUTINELY TESTED AS A PART OF THE MILITARY
4 MISSION OF A MILITARY INSTALLATION.

5 Sec. 3. Title 32, chapter 20, article 1, Arizona Revised Statutes, is
6 amended by adding section 32-2114.01, to read:

7 32-2114.01. Military electronics range

8 A. THE COMMISSIONER SHALL EXECUTE AND RECORD IN THE OFFICE OF THE
9 COUNTY RECORDER IN EACH COUNTY IN THIS STATE THAT INCLUDES A MILITARY
10 ELECTRONICS RANGE AS DELINEATED IN THE MILITARY ELECTRONICS RANGE MAP
11 PREPARED BY THE STATE LAND DEPARTMENT PURSUANT TO SECTION 37-102 A DOCUMENT
12 THAT APPLIES TO LAND CONTAINED IN A MILITARY ELECTRONICS RANGE AND THAT
13 DISCLOSES THAT THE LAND IS CONTAINED IN A MILITARY ELECTRONICS RANGE.

14 B. IF A MILITARY ELECTRONICS RANGE CHANGES AND PERSONS WHO WERE
15 NOTIFIED PURSUANT TO SUBSECTION A OF THIS SECTION NO LONGER HAVE PROPERTY
16 CONTAINED IN A MILITARY ELECTRONICS RANGE AS DELINEATED IN THE MILITARY
17 ELECTRONICS RANGE MAP, THE COMMISSIONER SHALL EXECUTE AND RECORD IN THE
18 OFFICE OF THE COUNTY RECORDER IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED
19 A DOCUMENT DISCLOSING THAT THE LAND IS NOT CONTAINED IN A MILITARY
20 ELECTRONICS RANGE.

21 C. THE ATTORNEY GENERAL SHALL PREPARE IN RECORDABLE FORM THE DOCUMENTS
22 THAT ARE EXECUTED AND RECORDED BY THE COMMISSIONER PURSUANT TO THIS SECTION.

23 D. THE DOCUMENTS THAT ARE EXECUTED AND RECORDED BY THE COMMISSIONER
24 PURSUANT TO THIS SECTION SHALL INCLUDE A GEOSPATIAL DESCRIPTION OF THE
25 MILITARY ELECTRONICS RANGE AS DELINEATED IN THE MILITARY ELECTRONICS RANGE
26 MAP.

27 Sec. 4. Section 32-2115, Arizona Revised Statutes, is amended to read:

28 32-2115. Department's website; military training route map;
29 restricted air space map; military electronics range
30 map

31 The department shall post on its ~~web site~~ WEBSITE THE FOLLOWING MAPS
32 PREPARED BY THE STATE LAND DEPARTMENT AS PRESCRIBED BY LAW:

33 1. The military training route map. ~~and~~

34 2. The restricted air space map ~~prepared by the state land department~~
35 ~~pursuant to section 37-102.~~

36 3. THE MILITARY ELECTRONICS RANGE OF A MILITARY BASE.

37 Sec. 5. Section 32-2183, Arizona Revised Statutes, is amended to read:

38 32-2183. Subdivision public reports; denial of issuance;
39 unlawful sales; voidable sale or lease; order
40 prohibiting sale or lease; investigations; hearings;
41 summary orders

42 A. Upon examination of a subdivision, the commissioner, unless there
43 are grounds for denial, shall issue to the subdivider a public report
44 authorizing the sale or lease in this state of the lots, parcels or
45 fractional interests within the subdivision. The report shall contain the

1 data obtained in accordance with section 32-2181 and any other information
2 which the commissioner determines is necessary to implement the purposes of
3 this article. If any of the lots, parcels or fractional interests within the
4 subdivision are located within territory in the vicinity of a military
5 airport or ancillary military facility as defined in section 28-8461, under a
6 military training route as delineated in the military training route map
7 prepared pursuant to section 37-102, ~~or~~ under restricted air space as
8 delineated in the restricted air space map prepared pursuant to section
9 37-102 **OR CONTAINED IN THE MILITARY ELECTRONICS RANGE AS DELINEATED IN THE**
10 **MILITARY ELECTRONICS RANGE MAP PREPARED PURSUANT TO SECTION 37-102**, the
11 report shall include, in bold twelve point font block letters on the first
12 page of the report, the statements required pursuant to section 28-8484,
13 subsection A, section 32-2183.05 or section 32-2183.06 and, if the department
14 has been provided a map prepared pursuant to section 28-8484, subsection B or
15 section 37-102, the report shall include a copy of the map. The military
16 airport report requirements do not require the amendment or reissuance of any
17 public report issued on or before December 31, 2001 or on or before December
18 31 of the year in which the lots, parcels or fractional interests within a
19 subdivision become territory in the vicinity of a military airport or
20 ancillary military facility. The military training route report requirements
21 do not require the amendment or reissuance of any public report issued on or
22 before December 31, 2004. The restricted air space report requirements do
23 not require the amendment or reissuance of any public report issued on or
24 before December 31, 2006. **THE MILITARY ELECTRONICS RANGE REPORT REQUIREMENTS**
25 **DO NOT REQUIRE THE AMENDMENT OR REISSUANCE OF ANY PUBLIC REPORT ISSUED ON OR**
26 **BEFORE DECEMBER 31, 2008.** The commissioner shall require the subdivider to
27 reproduce the report, make the report available to each prospective customer
28 and furnish each buyer or lessee with a copy before the buyer or lessee signs
29 any offer to purchase or lease, taking a receipt therefor.

30 B. Notwithstanding subsection A of this section, a subdivider may
31 elect to prepare a final public report for use in the sale of improved lots
32 as defined in section 32-2101, as follows:

33 1. The subdivider shall prepare the public report and provide a copy
34 of the report to the commissioner with the submission of the notification
35 required by sections 32-2181 and 32-2184 and shall comply with all other
36 requirements of this article.

37 2. An initial filing fee of five hundred dollars or an amended filing
38 fee of two hundred fifty dollars shall accompany the notification required by
39 paragraph 1 of this subsection.

40 3. The department shall assign a registration number to each
41 notification and public report submitted pursuant to this subsection and
42 shall maintain a database of all of these submissions. The subdivider shall
43 place the number on each public report.

1 4. The department shall determine within fifteen business days after
2 the receipt of the notification and public report whether the notification
3 and public report are administratively complete. The commissioner either may
4 issue a certification that the notification and public report are
5 administratively complete or may deny issuance of the certification if it
6 appears that the application or project is not in compliance with all legal
7 requirements, that the applicant has a background of violations of state or
8 federal law or that the applicant or project presents an unnecessary risk of
9 harm to the public.

10 5. A subdivider may commence sales or leasing activities as permitted
11 under this article after obtaining a certificate of administrative
12 completeness from the commissioner.

13 6. Before or after the commissioner issues a certificate of
14 administrative completeness, the department may examine any public report,
15 subdivision or applicant that has applied for or received the certificate.
16 If the commissioner determines that the subdivider or subdivision is not in
17 compliance with any requirement of state law or that grounds exist under this
18 chapter to suspend, deny or revoke a public report, the commissioner may
19 commence an administrative action under section 32-2154 or 32-2157. If the
20 subdivider immediately corrects the deficiency and comes into full compliance
21 with state law, the commissioner shall vacate any action that the
22 commissioner may have commenced pursuant to section 32-2154 or 32-2157.

23 7. The department shall provide forms and guidelines for the
24 submission of the notification and public report pursuant to this section.

25 C. The commissioner may suspend, revoke or deny issuance of a public
26 report on any of the following grounds:

27 1. Failure to comply with this article or the rules of the
28 commissioner pertaining to this article.

29 2. The sale or lease would constitute misrepresentation to or deceit
30 or fraud of the purchasers or lessees.

31 3. Inability to deliver title or other interest contracted for.

32 4. Inability to demonstrate that adequate financial or other
33 arrangements acceptable to the commissioner have been made for completion of
34 all streets, sewers, electric, gas and water utilities, drainage and flood
35 control facilities, community and recreational facilities and other
36 improvements included in the offering.

37 5. Failure to make a showing that the lots, parcels or fractional
38 interests can be used for the purpose for which they are offered.

39 6. The owner, agent, subdivider, officer, director or partner,
40 subdivider trust beneficiary holding ten per cent or more direct or indirect
41 beneficial interest or, if a corporation, any stockholder owning ten per cent
42 or more of the stock in the corporation has:

1 (a) Been convicted of a felony or misdemeanor involving fraud or
2 dishonesty or involving conduct of any business or a transaction in real
3 estate, cemetery property, time-share intervals or membership camping
4 campgrounds or contracts.

5 (b) Been permanently or temporarily enjoined by order, judgment or
6 decree from engaging in or continuing any conduct or practice in connection
7 with the sale or purchase of real estate or cemetery property, time-share
8 intervals, membership camping contracts or campgrounds, or securities or
9 involving consumer fraud or the racketeering laws of this state.

10 (c) Had an administrative order entered against him by a real estate
11 regulatory agency or security regulatory agency.

12 (d) Had an adverse decision or judgment entered against him involving
13 fraud or dishonesty or involving the conduct of any business or transaction
14 in real estate, cemetery property, time-share intervals or membership camping
15 campgrounds or contracts.

16 (e) Disregarded or violated this chapter or the rules of the
17 commissioner pertaining to this chapter.

18 (f) Controlled an entity to which subdivision (b), (c), (d) or (e)
19 applies.

20 7. Procurement or an attempt to procure a public report by fraud,
21 misrepresentation or deceit or by filing an application for a public report
22 that is materially false or misleading.

23 8. Failure of the declaration for a condominium created pursuant to
24 title 33, chapter 9, article 2 to comply with the requirements of section
25 33-1215 or failure of the plat for the condominium to comply with the
26 requirements of section 33-1219. The commissioner may require an applicant
27 for a public report to submit a notarized statement signed by the subdivider
28 or an engineer or attorney licensed to practice in this state certifying that
29 the condominium plat and declaration of condominium are in compliance with
30 the requirements of sections 33-1215 and 33-1219. If the notarized statement
31 is provided, the commissioner is entitled to rely on this statement.

32 9. Failure of any blanket encumbrance or valid supplementary agreement
33 executed by the holder of the blanket encumbrance to contain provisions that
34 enable the purchaser to acquire title to a lot or parcel free of the lien of
35 the blanket encumbrance, on completion of all payments and performance of all
36 of the terms and provisions required to be made or performed by the purchaser
37 under the real estate sales contract by which the purchaser has acquired the
38 lot or parcel. The subdivider shall file copies of documents acceptable to
39 the commissioner containing these provisions with the commissioner before the
40 sale of any subdivision lot or parcel subject to a blanket encumbrance.

41 10. Failure to demonstrate permanent access to the subdivision lots or
42 parcels.

43 11. The use of the lots presents an unreasonable health risk.

1 D. It is unlawful for a subdivider to sell any lot in a subdivision
2 unless one of the following occurs:

3 1. All proposed or promised subdivision improvements are completed.

4 2. The completion of all proposed or promised subdivision improvements
5 is assured by financial arrangements acceptable to the commissioner. The
6 financial arrangements may be made in phases for common community and
7 recreation facilities required by a municipality or county as a stipulation
8 for approval of a plan for a master planned community.

9 3. The municipal or county government agrees to prohibit occupancy and
10 the subdivider agrees not to close escrow for lots in the subdivision until
11 all proposed or promised subdivision improvements are completed.

12 4. The municipal or county government enters into an assurance
13 agreement with any trustee not to convey lots until improvements are
14 completed within the portion of the subdivision containing these lots, if the
15 improvements can be used and maintained separately from the improvements
16 required for the entire subdivision plat. The agreement shall be recorded in
17 the county in which the subdivision is located.

18 E. If the subdivision is within an active management area, as defined
19 in section 45-402, the commissioner shall deny issuance of a public report or
20 the use of any exemption pursuant to section 32-2181.02, subsection B unless
21 the subdivider has been issued a certificate of assured water supply by the
22 director of water resources and has paid all applicable fees pursuant to
23 sections 48-3772 and 48-3774.01, or unless the subdivider has obtained a
24 written commitment of water service for the subdivision from a city, town or
25 private water company designated as having an assured water supply by the
26 director of water resources pursuant to section 45-576 or is exempt from the
27 requirement pursuant to section 45-576.

28 F. In areas outside of active management areas, if the subdivision is
29 located in a county that has adopted the provision authorized by section
30 11-806.01, subsection F or in a city or town that has enacted an ordinance
31 pursuant to section 9-463.01, subsection O, the commissioner shall deny
32 issuance of a public report or the use of any exemption pursuant to section
33 32-2181.02, subsection B unless one of the following applies:

34 1. The director of water resources has reported pursuant to section
35 45-108 that the subdivision has an adequate water supply.

36 2. The subdivider has obtained a written commitment of water service
37 for the subdivision from a city, town or private water company designated as
38 having an adequate water supply by the director of water resources pursuant
39 to section 45-108.

40 3. The plat was approved pursuant to an exemption authorized by
41 section 9-463.01, subsection K, pursuant to an exemption authorized by
42 section 11-806.01, subsection G, paragraph 1, pursuant to an exemption
43 granted by the director of water resources under section 45-108.02 and the
44 exemption has not expired or pursuant to an exemption granted by the director
45 of water resources under section 45-108.03.

1 4. The subdivision received final plat approval from the city, town or
2 county before the requirement for an adequate water supply became effective
3 in the city, town or county, and there have been no material changes to the
4 plat since the final plat approval. If changes were made to the plat after
5 the final plat approval, the director of water resources shall determine
6 whether the changes are material pursuant to the rules adopted by the
7 director to implement section 45-108.

8 G. A subdivider shall not sell or lease or offer for sale or lease in
9 this state any lots, parcels or fractional interests in a subdivision without
10 first obtaining a public report from the commissioner except as provided in
11 section 32-2181.01 or 32-2181.02. Unless exempt, the sale or lease of
12 subdivided lands prior to issuance of the public report or failure to deliver
13 the public report to the purchaser or lessee shall render the sale or lease
14 rescindable by the purchaser or lessee. An action by the purchaser or lessee
15 to rescind the transaction shall be brought within three years of the date of
16 execution of the purchase or lease agreement by the purchaser or lessee. In
17 any rescission action, the prevailing party is entitled to reasonable
18 attorney fees as determined by the court.

19 H. Any applicant objecting to the denial of a public report, within
20 thirty days after receipt of the order of denial, may file a written request
21 for a hearing. The commissioner shall hold the hearing within twenty days
22 after receipt of the request for a hearing unless the party requesting the
23 hearing has requested a postponement. If the hearing is not held within
24 twenty days after a request for a hearing is received, plus the period of any
25 postponement, or if a proposed decision is not rendered within forty-five
26 days after submission, the order of denial shall be rescinded and a public
27 report issued.

28 I. On the commissioner's own motion, or when the commissioner has
29 received a complaint and has satisfactory evidence that the subdivider or the
30 subdivider's agent is violating this article or the rules of the commissioner
31 or has engaged in any unlawful practice as defined in section 44-1522 with
32 respect to the sale of subdivided lands or deviated from the provisions of
33 the public report, the commissioner may investigate the subdivision project
34 and examine the books and records of the subdivider. For the purpose of
35 examination, the subdivider shall keep and maintain records of all sales
36 transactions and funds received by the subdivider pursuant to the sales
37 transactions and shall make them accessible to the commissioner upon
38 reasonable notice and demand.

39 J. On the commissioner's own motion, or when the commissioner has
40 received a complaint and has satisfactory evidence that any person has
41 violated this article or the rules of the commissioner or has engaged in any
42 unlawful practice as defined in section 44-1522 with respect to the sale of
43 subdivided lands or deviated from the provisions of the public report or
44 special order of exemption, or has been indicted for fraud or against whom an
45 information for fraud has been filed or has been convicted of a felony,

1 before or after the commissioner issues the public report as provided in
2 subsection A of this section, the commissioner may conduct an investigation
3 of the matter, issue a summary order as provided in section 32-2157, or hold
4 a public hearing and, after the hearing, may issue the order or orders the
5 commissioner deems necessary to protect the public interest and ensure
6 compliance with the law, rules or public report or the commissioner may bring
7 action in any court of competent jurisdiction against the person to enjoin
8 the person from continuing the violation or engaging in or doing any act or
9 acts in furtherance of the violation. The court may make orders or
10 judgments, including the appointment of a receiver, necessary to prevent the
11 use or employment by a person of any unlawful practices, or which may be
12 necessary to restore to any person in interest any monies or property, real
13 or personal, that may have been acquired by means of any practice in this
14 article declared to be unlawful.

15 K. When it appears to the commissioner that a person has engaged in or
16 is engaging in a practice declared to be unlawful by this article and that
17 the person is concealing assets or self or has made arrangements to conceal
18 assets or is about to leave the state, the commissioner may apply to the
19 superior court, ex parte, for an order appointing a receiver of the assets of
20 the person or for a writ of ne exeat, or both.

21 L. The court, on receipt of an application for the appointment of a
22 receiver or for a writ of ne exeat, or both, shall examine the verified
23 application of the commissioner and other evidence that the commissioner may
24 present the court. If satisfied that the interests of the public require the
25 appointment of a receiver or the issuance of a writ of ne exeat without
26 notice, the court shall issue an order appointing the receiver or issue the
27 writ, or both. If the court determines that the interests of the public will
28 not be harmed by the giving of notice, the court shall set a time for a
29 hearing and require notice be given as the court deems satisfactory.

30 M. If the court appoints a receiver without notice, the court shall
31 further direct that a copy of the order appointing a receiver be served on
32 the person engaged in or engaging in a practice declared to be unlawful under
33 this article by delivering the order to the last address of the person that
34 is on file with the state real estate department. The order shall inform the
35 person that the person has the right to request a hearing within ten days of
36 the date of the order and, if requested, the hearing shall be held within
37 thirty days from the date of the order.

38 Sec. 6. Section 32-2183.05, Arizona Revised Statutes, is amended to
39 read:

40 32-2183.05. Military training route disclosure; military
41 electronics range disclosure; residential
42 property

43 A. Any public report that is issued after December 31, 2004 pursuant
44 to section 32-2183 or 32-2195.03 and that is applicable to property located
45 under a military training route, as delineated in the military training route

1 map prepared by the state land department pursuant to section 37-102, AND ANY
2 PUBLIC REPORT THAT IS ISSUED AFTER DECEMBER 31, 2008 AND THAT IS APPLICABLE
3 TO PROPERTY LOCATED IN A MILITARY ELECTRONICS RANGE AS DELINEATED IN THE
4 MILITARY ELECTRONICS RANGE MAP PREPARED BY THE STATE LAND DEPARTMENT PURSUANT
5 TO SECTION 37-102, shall include the following statements:

6 1. The property is located under a military training route OR IN A
7 MILITARY ELECTRONICS RANGE.

8 2. The state land department and the state real estate department
9 maintain military training route maps AND MILITARY ELECTRONICS RANGE MAPS
10 available to the public.

11 3. The military training route map ~~is~~ AND MILITARY ELECTRONICS RANGE
12 MAP ARE posted on the state real estate department's ~~web-site~~ WEBSITE.

13 B. The public report prescribed by subsection A of this section may
14 contain a disclaimer that the subdivider has no control over the military
15 training routes as delineated in the military training route map or the
16 timing or frequency of flights and associated levels of noise AND HAS NO
17 CONTROL OVER THE MILITARY ELECTRONICS RANGE AND ITS TESTING AND TRAINING
18 OPERATIONS.

19 C. For any lot reservation or conditional sale that occurs before the
20 issuance of a public report, the disclosure statements listed in subsection A
21 of this section shall be included within the reservation document or
22 conditional sales contract.

23 D. This section does not require the amendment or reissuance of any
24 public report issued on or before December 31, 2004 THAT IS APPLICABLE TO
25 PROPERTY LOCATED UNDER A MILITARY TRAINING ROUTE, AS DELINEATED IN THE
26 MILITARY TRAINING ROUTE MAP PREPARED BY THE STATE LAND DEPARTMENT PURSUANT TO
27 SECTION 37-102 OR ON OR BEFORE DECEMBER 31, 2008 THAT IS APPLICABLE TO
28 PROPERTY LOCATED IN A MILITARY ELECTRONICS RANGE, AS DELINEATED IN THE
29 MILITARY ELECTRONICS RANGE MAP PREPARED BY THE STATE LAND DEPARTMENT PURSUANT
30 TO SECTION 37-102 or the amendment or reissuance of any reservation document
31 or conditional sales contract accepted on or before December 31, 2004 OR ON
32 OR BEFORE DECEMBER 31, 2008.

33 E. Notwithstanding any other law, if the public report complies with
34 subsection A of this section, a subdivider is not liable to any person or
35 governmental entity for any act or failure to act in connection with the
36 disclosure of a military training route as delineated in the military
37 training route map OR A MILITARY ELECTRONICS RANGE AS DELINEATED IN THE
38 MILITARY ELECTRONICS RANGE MAP.

39 Sec. 7. Section 33-422, Arizona Revised Statutes, is amended to read:

40 33-422. Land divisions; recording; disclosure affidavit

41 A. A seller of five or fewer parcels of land, other than subdivided
42 land, in an unincorporated area of a county and any subsequent seller of such
43 a parcel shall furnish a written affidavit of disclosure to the buyer, at
44 least seven days before the transfer of the property, and the buyer shall
45 acknowledge receipt of the affidavit.

- 1 B. The affidavit must be written in twelve point type.
2 C. No release or waiver of a seller's liability arising out of any
3 omission or misrepresentation contained in an affidavit of disclosure is
4 valid or binding on the buyer.
5 D. The buyer has the right to rescind the sales transaction for a
6 period of five days after the affidavit of disclosure is furnished to the
7 buyer.
8 E. The seller shall record the executed affidavit of disclosure at the
9 same time that the deed is recorded. The county recorder is not required to
10 verify the accuracy of any statement in the affidavit of disclosure. A
11 subsequently recorded affidavit supersedes any previous affidavit.
12 F. The affidavit of disclosure shall meet the requirements of section
13 11-480 and follow substantially the following form:

14 When recorded mail to:

15 _____
16 _____
17 _____
18 _____

19 Affidavit of Disclosure
20 Pursuant to A.R.S. §33-422

21 I, _____ (seller(s))
22 being duly sworn, hereby make this affidavit of disclosure
23 relating to the real property situated in the unincorporated
24 area of:

25 _____, County, State of Arizona, located at:

26 _____
27 and legally described as:

28 (Legal description attached hereto as exhibit "A")
29 (property).

30 1. There ☐ is ☐ is not legal access to the
31 property, as defined in A.R.S. § 11-809 ☐ unknown

32 Explain: _____

33 _____

34 _____

35 2. There ☐ is ☐ is not physical access to the
36 property. ☐ unknown

37 Explain: _____

38 _____

39 _____

40 3. There ☐ is ☐ is not a statement from a
41 licensed surveyor or engineer available stating whether the
42 property has physical access that is traversable by a two-wheel
43 drive passenger motor vehicle.

44 4. The legal and physical access to the property ☐ is
45 ☐ is not the same....☐ unknown ☐ not applicable.

1 Explain: _____

2
3
4 *If access to the parcel is not traversable by emergency*
5 *vehicles, the county and emergency service providers may not be*
6 *held liable for any damages resulting from the inability to*
7 *traverse the access to provide needed services.*

8 5. The road(s) is/are ☐ publicly maintained
9 ☐ privately maintained ☐ not maintained ☐ not applicable.
10 If applicable, there ☐ is ☐ is not a recorded road
11 maintenance agreement.

12 *If the roads are not publicly maintained, it is the*
13 *responsibility of the property owner(s) to maintain the roads*
14 *and roads that are not improved to county standards and accepted*
15 *for maintenance are not the county's responsibility.*

16 6. A portion or all of the property ☐ is ☐ is not
17 . . . located in a FEMA designated regulatory floodplain. If
18 the property is in a floodplain, it may be subject to floodplain
19 regulation.

20 7. The property ☐ is ☐ is not subject to
21 ☐ fissures or ☐ expansive soils. ☐ unknown

22 Explain: _____

23
24
25 8. The following services are currently provided to the
26 property: ☐ water ☐ sewer ☐ electric ☐ natural gas
27 ☐ single party telephone ☐ cable television services.

28 9. The property ☐ is ☐ is not served by a
29 water supply that requires the transportation of water to the
30 property.

31 10. The property is served by ☐ a private water company
32 ☐ a municipal water provider ☐ a private well ☐ a shared
33 well ☐ no well. If served by a shared well, the shared well
34 ☐ is ☐ is not a public water system, as defined by
35 the safe drinking water act (42 United States Code § 300f).

36 *Notice to buyer: If the property is served by a well, A private*
37 *water company or a municipal water provider the Arizona*
38 *department of water resources may not have made a water supply*
39 *determination. For more information about water supply, contact*
40 *the water provider.*

41 11. The property ☐ does have ☐ does not have
42 an on-site wastewater treatment facility (i.e., standard septic
43 or alternative system to treat and dispose of wastewater).
44 ☐ unknown. If applicable: a) The property ☐ will ☐ will not
45 require installation of an on-site wastewater treatment

1 facility; b) The on-site wastewater treatment facility ☐ has
2 ☐ has not been inspected.

3 12. The property ☐ has been ☐ has not been
4 subject to a percolation test. ☐ unknown.

5 13. The property ☐ does ☐ does not meet the
6 minimum applicable county zoning requirements of the applicable
7 zoning designation.

8 14. The sale of the property ☐ does ☐ does not
9 meet the requirements of A.R.S. § 11-809 regarding land
10 divisions. If those requirements are not met, the property
11 owner may not be able to obtain a building permit. The seller
12 or property owner shall disclose each of the deficiencies to the
13 buyer.

14 Explain: _____

15
16
17 15. The property ☐ is ☐ is not located in the clear
18 zone of a military airport or ancillary military facility, as
19 defined in A.R.S. § 28-8461. (Maps are available at the state
20 real estate department's ~~web-site~~ WEBSITE.)

21 16. The property ☐ is ☐ is not located in the high
22 noise or accident potential zone of a military airport or
23 ancillary military facility, as defined in A.R.S. § 28-8461.
24 (Maps are available at the state real estate department's ~~web~~
25 ~~site~~ WEBSITE.)

26 17. Notice: If the property is located within the
27 territory in the vicinity of a military airport or ancillary
28 military facility, the property is required to comply with sound
29 attenuation standards as prescribed by A.R.S. § 28-8482. (Maps
30 are available at the state real estate department's ~~web-site~~
31 WEBSITE.)

32 18. The property ☐ is ☐ is not located under military
33 restricted airspace. ☐ unknown. (Maps are available at the
34 state real estate department's ~~web-site~~ WEBSITE.)

35 19. THE PROPERTY ☐ IS ☐ IS NOT LOCATED IN A MILITARY
36 ELECTRONICS RANGE OF AS DEFINED IN A.R.S. §§ 9-500.28 AND
37 11-812. ☐ UNKNOWN. (MAPS ARE AVAILABLE AT THE STATE REAL
38 ESTATE DEPARTMENT'S WEBSITE.)

39 This affidavit of disclosure supersedes any previously recorded
40 affidavit of disclosure.

41 I certify under penalty of perjury that the information
42 contained in this affidavit is true, complete and correct
43 according to my best belief and knowledge.

44 Dated this _____(date)_____ day of _____(year)_____ by:

45 Seller's name (print): _____ Signature: _____

1 Seller's name (print): _____ Signature: _____
2 State of Arizona)
3) ss.
4 County of _____)
5 Subscribed and sworn before me this ____ (date) ____ day of
6 ____ (year) ____, by _____.

7 _____
8 Notary public

9 My commission expires:
10 ____ (date) ____

11 Buyer(s) hereby acknowledges receipt of a copy of this affidavit
12 of disclosure this ____ (date) ____ day of ____ (year) ____

13 Buyer's name (print): _____ Signature: _____

14 Buyer's name (print): _____ Signature: _____

15 G. For the purposes of this section, seller and subsequent seller do
16 not include a trustee of a deed of trust who is selling property by a
17 trustee's sale pursuant to title 33, chapter 6.1 or any officer who is
18 selling property by execution sale pursuant to title 12, chapter 9 and
19 title 33, chapter 6. If the seller is a trustee of a subdivision trust as
20 defined in section 6-801, the disclosure affidavit required by this section
21 shall be provided by the beneficiary of the subdivision trust.

22 Sec. 8. Section 37-102, Arizona Revised Statutes, is amended to read:

23 37-102. State land department; powers and duties

24 A. The state land department shall administer all laws relating to
25 lands owned by, belonging to and under the control of the state.

26 B. The department shall have charge and control of all lands owned by
27 the state, and timber, stone, gravel and other products of such lands, except
28 lands under the specific use and control of state institutions and the
29 products of such lands.

30 C. The department, in the name of the state, may commence, prosecute
31 and defend all actions and proceedings to protect the interest of the state
32 in lands within the state or the proceeds thereof. Actions shall be
33 commenced and prosecuted at the request of the department by the attorney
34 general, a county attorney or a special counsel under the direction of the
35 attorney general.

36 D. The department shall be the official representative of the state in
37 any communication between the state and the United States government in all
38 matters respecting state lands or any interest of the state in or to the
39 public lands within the state.

40 E. The summons in any action against the state respecting any lands of
41 the state or the products of such lands and all notices concerning such lands
42 or products shall be served upon the commissioner. Summonses, warrants or
43 legal notices served on behalf of the department may be served by the
44 commissioner or the commissioner's deputy, or by the sheriff or a constable
45 of any county of the state.

1 F. The department shall maintain as a public record in each of its
2 offices a public docket and index of all matters before the department which
3 may be subject to appeal to the board of appeals or to the courts and all
4 sale, exchange and lease transactions subject to bidding by the public. The
5 department shall list a matter on the public docket immediately after an
6 application or other request for department action is received by the
7 department. The department shall include in the public docket every formal
8 action and decision affecting each matter in question. The department shall
9 establish by rule a means by which any person may obtain a copy of the public
10 docket at the current copying cost.

11 G. The department shall reappraise or update its original appraisal of
12 property to be leased, exchanged or sold if the board of appeals' approval of
13 the lease or sale occurred more than one hundred eighty days before the
14 auction.

15 H. The state land department shall:

16 1. Prepare maps of the ancillary military facilities described in
17 section 28-8461, paragraph 7, subdivisions (b) and (c).

18 2. Make a map of the ancillary military facility described in section
19 28-8461, paragraph 7, subdivision (a) available to the public in printed or
20 electronic format and provide the map in printed or electronic format to the
21 state real estate department.

22 3. WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO
23 THIS SECTION AND ON RECEIPT OF PROPER INFORMATION FROM THE MILITARY
24 INSTALLATION COMMANDER WITH RESPONSIBILITY FOR THE MILITARY ELECTRONICS
25 RANGE, PREPARE A MAP OF THE MILITARY ELECTRONICS RANGE AS DEFINED IN SECTION
26 9-500.28 AND MAKE THAT MAP AVAILABLE TO THE PUBLIC IN PRINTED OR ELECTRONIC
27 FORMAT AND PROVIDE THE MAP IN PRINTED OR ELECTRONIC FORMAT TO THE STATE REAL
28 ESTATE DEPARTMENT. WITHIN NINETY DAYS OF RECEIPT OF NOTICE OF ANY CHANGE IN
29 THE BOUNDARIES OF THE MILITARY ELECTRONICS RANGE FROM THE MILITARY
30 INSTALLATION COMMANDER, THE STATE LAND DEPARTMENT SHALL REVISE ITS MAP AND
31 PROVIDE THE MAP TO THE PUBLIC AND TO THE STATE REAL ESTATE DEPARTMENT.

32 I. The state land department shall provide each map and the legal
33 description of the boundaries of each ancillary military facility described
34 in section 28-8461, paragraph 7 in electronic format to the state real estate
35 department. Each map prepared by the state land department pursuant to this
36 section shall:

37 1. Describe the ancillary military facility, the territory in the
38 vicinity of the ancillary military facility and the high noise and accident
39 potential zone, accident potential zone one and accident potential zone two
40 associated with the ancillary military facility.

41 2. Be submitted to the county in which the ancillary military facility
42 is located.

43 3. Be made available in printed or electronic format to the public at
44 the state land department and at the state real estate department.

1 J. The state land department shall prepare a military training route
2 map. The map shall contain military training route numbers in this state
3 that are used by various United States armed forces. The map shall be dated.

4 K. When preparing the military training route map, the state land
5 department shall use information contained in the most current department of
6 defense publication that is entitled area planning military training routes
7 for North and South America.

8 L. The military training route map shall be made available in printed
9 or electronic format to the public at the state land department and at the
10 state real estate department.

11 M. Within ninety days after the department is notified of a change of
12 a military training route in this state, the department shall prepare a
13 revised military training route map. The map shall be dated and contain a
14 statement that the map supersedes all previously dated maps. The state land
15 department shall send the revised map to the state real estate department
16 electronically and shall also send an accompanying letter specifying the
17 military training route changes. The state land department shall send the
18 revised map and an accompanying letter specifying the military training route
19 changes to the municipalities affected by the changes and to all counties.

20 N. The department shall submit the military training route map
21 prepared pursuant to this section to the counties in either an electronic or
22 a printed format. The format shall be determined by the receiving county.

23 O. The state land department shall provide the legal description of
24 the boundaries of the military training routes as delineated in the military
25 training route map to the state real estate department in electronic format.

26 P. ~~Within ninety days after the effective date of this amendment to~~
27 ~~this section,~~ The state land department shall prepare a military restricted
28 airspace map. The map shall contain military restricted airspace in this
29 state that is used by various United States armed forces. The map shall be
30 dated.

31 Q. When preparing the military restricted airspace map, the state land
32 department shall use information contained in the most current department of
33 transportation publication that is entitled "aeronautical chart".

34 R. The military restricted airspace map shall be made available in
35 printed or electronic format to the public at the state land department and
36 at the state real estate department.

37 S. Within ninety days after the department is notified of a change of
38 military restricted airspace in this state, the department shall prepare a
39 revised military restricted airspace map. The map shall be dated and contain
40 a statement that the map supersedes all previously dated maps. The state
41 land department shall send the revised map to the state real estate
42 department electronically and shall also send an accompanying letter
43 specifying the military restricted airspace changes. The state land
44 department shall send the revised map and an accompanying letter specifying

1 the military restricted airspace changes to the municipalities affected by
2 the changes and to all counties.

3 T. The department shall submit the military restricted airspace map
4 prepared pursuant to this section to the counties in either an electronic or
5 a printed format. The format shall be determined by the receiving county.

6 U. The state land department shall provide the legal description of
7 the boundaries of the military restricted airspace as delineated in the
8 military restricted airspace map to the state real estate department in
9 electronic format.